

THE TULALIP TRIBES OF WASHINGTON
RESOLUTION NO. _____

Adopting and Implementing the Tulalip Tribes Tidelands Management Policies

Whereas, the Board of Directors is the governing body of the Tulalip Tribes under the Constitution and Bylaws of the Tribes approved by the United States Commissioner of Indian Affairs and the Secretary of the Interior on January 24, 1936, pursuant to the Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. §476); and

Whereas, the Tulalip Tribes Board of Directors is empowered by the Tulalip Constitution, Article VI, Sections 1 (C), (L) and (U) to enact ordinances and adopt policies relating to the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets, the use and disposition of property upon the reservation, and the exercise of the right to hunt and fish, gather berries, roots, shellfish and other traditional rights and areas.

Whereas, the Tulalip Indian Reservation was reserved for the use and benefit of Indian tribes and bands signatory to the Treaty of Point Elliott, 12 Stat 927, and its boundaries as established by the Treaty and President U.S. Grant's Executive Order of December 23, 1873, to include all lands lying above the extreme low water mark of the Reservation; and

Whereas, the Tribes in the Treaty of Point Elliott of 1855 reserved and protected their ownership of unobstructed Reservation tidelands because the tidelands at treaty time were in constant use by the native people of the area for a means of foot travel along Puget Sound, as a means of providing for marine transport, landing and travel within Puget Sound, for religious and ceremonial purposes, as a means of anchoring certain fishery and hunting devices, as a place where food, wood and other materials could be gathered, and for other purposes, and

Whereas, although the President was authorized in the Treaty to make allotments from certain lands of the Tulalip Reservation, the tidelands of the Reservation above the line of extreme low tide were never allotted nor otherwise alienated and, therefore, title to those unallotted or otherwise unalienated reservation lands, together with Tulalip Bay, remain today reserved for the use and benefit of the Tulalip Tribes of Washington; and

Whereas, the tidelands of the Tulalip Reservation are habitat to important marine resources, including fish, shellfish and other aquatic species that sustain the physical, cultural and economic identity of the Tulalip Tribes; and

Whereas, the Tulalip Tribes' use of the reservation as a homeland and critical interests in Reservation tidelands are threatened by development on and along the shoreline that degrades the ecology of the beach environment and impedes the access of Tribal members to the tidelands and its resources; and

Whereas, there is an immediate need for the Tulalip Tribes to adopt certain land management and enforcement policies to preserve and protect Tulalip tidelands, to maximize Tribal member access to them, and, to the greatest extent possible, restore them to their naturally functioning

conditions; and

Whereas, the Tulalip Tribes wishes to cooperate with the residents of the Tulalip Reservation by allowing certain limited uses and structures on or affecting Tulalip tidelands under carefully managed conditions intended to minimize adverse environmental impacts and to protect the Tribes' interests in such tidelands; and

Whereas, accordingly, in April 2003, the Tulalip Board of Directors directed Tribal staff and the Tulalip Planning Commission to recommend policies for the management and use of Tribal tidelands; and

Whereas, draft policies were prepared, comments were solicited from the public and state and local government agencies, and, following public notice, public hearings were held by the Tulalip Planning Commission on September 17, 2003, and again on February 8, 2006; and

Whereas, six community meetings were held by the Tulalip Tribes, following public notice, in response to requests from the public, on November 18, 2003, December 2, 2003, December 4, 2003, December 9, 2003, December 11, 2003, and December 17, 2003, to gather information and to foster a better public understanding concerning the use and management of the tidelands of the Tulalip Reservation; and

Whereas, the Tulalip Planning Commission has thoroughly considered the draft policies and oral and written input from the public and Tribal departments, and

Whereas, on _____, the Tulalip Planning Commission adopted Motion No. 2006-001, recommending approval of the draft policies to the Tulalip Board of Directors with certain amendments in response to comments from the public and Tribal departments; and

Whereas, the Tulalip Board of Directors has carefully considered the Planning Commission's recommendation at its regular meeting on _____, 2006.

NOW THEREFORE, BE IT ENACTED BY THE BOARD OF DIRECTORS OF THE TULALIP TRIBES:

1. The Tulalip Tribes' Tidelands Management Policies (attached hereto as Exhibit A) are hereby enacted as Ordinance XX, and shall be used by Tribal officials in: a) reviewing, conditioning, and deciding development permit applications submitted under Tulalip Zoning Ordinance 80 on Tribal tidelands, b) conditioning and approving tidelands leases and, c) reviewing and approving other uses of Tribal tidelands.

2. Tulalip Zoning Ordinance No. 80 is hereby amended as follows:

a. A new section 4.5 is added, as follows:

4.5 *Conformity with Ordinance No. XX (Tidelands Management Policies). All permits issued under Ordinance No. 80 shall be in compliance with Ordinance No. XX, the Tulalip Tribes Tidelands Management Policies.*

Ordinance No. XX shall control in cases of conflict between Ordinance No. 80 and Ordinance No. XX.

- b. Sections 8.3, 10.3, 12.4, 13.4, 14.4, 16.4, 17.3, 18.3, and 20.3 are amended to add "Tribal structures on Tribal tidelands" as a conditional use.

- c. Section 41.1 is hereby amended to read as follows:

41.1 Civil Penalties: The Executive Director may, in an Enforcement Order issued under section 45.2, assess a civil penalty of:

- (1) Up to \$500.00 against the landowner or any other responsible party who (a) uses, occupies, or completes work upon land or a structure in violation of this ordinance, or without, or in violation of, a permit required by this ordinance, or (b) subdivides land without an approval required by this ordinance, or (c) violates the conditions or mitigation requirements of a permit, subdivision approval, or variance, or (d) violates any provision of this ordinance;*
- (2) A minimum of \$5,000 against any person who constructs, installs, repairs, or replaces any structure or performs other work on Tribal tidelands in violation of the requirements of Ordinance XX*
- (3) \$100.00 per day against any person who violates any Enforcement Order issued under section 45.2, in which case the Order shall so state.*

- d. Section 4.2(a) is hereby amended to read as follows:

4.2 Permit Administration: The Executive Director of the Department of Community Development or his/her designee:

- (a) Shall require a completed permit application, any required plans and specifications, evidence of an interest in the land such as title, lease or contract, and payment of all required fees, prior to reviewing an application for any permit required under this ordinance;*

- e. Section 7.2 is hereby amended to read as follows:

7.2 Uses within Zones. Any use of lands within the exterior boundaries of the Tulalip Indian Reservation which is not a Permitted Use or Permitted Accessory Use and Structure within a zone upon a legal lot, a Conditional Use upon a legal lot or tribally owned tidelands for which a conditional use permit has been issued under this ordinance, a Variance for a use upon a legal lot for which a variance permit has been issued under this ordinance, or without a permit required by this ordinance, or in violation of the conditions or requirements of a permit issued under this ordinance, shall be prohibited and unlawful.

3. Resolution No. 2004-451, adopting a one-year moratorium on all tribal tidelands permits, leases, and other approvals, is hereby repealed.

PASSED THIS ____ day of _____ 2006, in a Regular Session by a vote of ____ for and _____ against.

THE TULALIP TRIBES OF WASHINGTON

Stanley G. Jones, Sr., Chairman

ATTEST:

Marie Zackuse, Secretary